

II. REMARKS

A. Introduction

Applicants submit this Response in a bona fide attempt to (i) advance the prosecution of this application, (ii) answer each and every ground of objection and rejection as set forth by the Examiner, (iii) place the claims in a condition for allowance, and (iv) place the case in better condition for consideration on appeal. Applicants respectfully request reexamination and reconsideration of the above referenced patent application in view of this Response.

Claims 1-34 are currently pending in this application. Applicants gratefully acknowledge the allowance of Claims 16-33.

As indicated above, Claims 1, 4, 6, 9 and 34 have been amended. Claim 3 has also been canceled.

Applicants respectfully submit that the noted amendments merely make explicit that which was (and is) disclosed or implicit in the original disclosure. The amendments thus add nothing that would not be reasonably apparent to a person of ordinary skill in the art to which the invention pertains.

B. Response to Objections

1. Claim 6

The Examiner has objected to Claim 6 (and, hence, Claims 7-9, dependant thereon) in view of the following typographical error: on line 1, the claim recites “of claim 4 5”. As indicated above, Applicants have amended Claim 6 to recite “of claim 4”.

2. Claims 2-14

The Examiner has also objected to Claims 2-14 as being dependent upon a rejected base claim, i.e. Claim 1. As indicated above and discussed in detail below, Claim 1 has been amended to incorporate the unobvious limitations recited in Claim 3. Claim 1 and, hence, Claims 2-14, dependent thereon, should accordingly be deemed allowable.

C. Response to Rejections

1. 35 U.S.C. § 112

The Examiner has rejected Claims 9 and 34 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention.

The Examiner contends that the phrase “may be” in Claim 9 renders the Claim 9 indefinite. The Examiner further contends that there is insufficient antecedent basis for the limitation “the roof truss’s upper apex” in Claim 34.

As indicated above, Applicants have accordingly deleted the entire phrase “whereby said ferrule may be maintained therebetween” from Claim 9.

Applicants have also amended Claim 34 to recite that the roof truss includes an upper apex, and that an apex plate joins the stiffening member and chord member at the roof truss upper apex.

Applicants thus respectfully request that the rejection of Claims 9 and 34 under 35 U.S.C. § 112 be withdrawn.

2. 35 U.S.C. § 102

The Examiner has rejected Claims 1 and 15 “under 35 U.S.C. § 102 (b) as being anticipated by US 1,867,449 to Ecket et al.” The Examiner contends, *inter alia*:

Ecket et al disclose a construction member for a roof truss, said construction member comprising: a longitudinal body 10 having at least a base 11 and two upright side walls 12, wherein each of said upright side walls 12 extends longitudinally beyond said base to thereby form opposed flange portions 18 at longitudinal ends thereof, said opposed flange portions including opposed and co-axially aligned, internally pressed circular sections 17 (see Fig.5).

It is well established that a rejection for anticipation under § 102 requires that each and every limitation of the claimed invention be disclosed in a single prior art reference. *See In re Paulsen*, 30 F.3d 1475, 1478-79, 31 U.S.P.Q. 2d 1671, 1673 (Fed. Cir. 1994); *Scripps Clinic & Research Foundation v. Genentech, Inc.*, 927 F.2d 1565, 18 U.S.P.Q. 2d 1001 (Fed. Cir.1991). *See also American Permahedge, Inc. v. Barcana, Inc.*, 857 F. Supp. 308, 32 U.S.P.Q. 2d 1801, 1807-08 (S.D. NY 1994) (“Prior art anticipates an invention ... if a single prior art reference contains each and every element of the patent at issue, operating in the same fashion to perform the identical function as the patent product. ... Thus, any degree of physical difference between the patented product and the prior art, *no matter how slight*, defeats the claim of anticipation.”);

Transco Ex parte Levy, 17 U.S.P.Q. 2d 1461, 1462 (Bd. Pat. App. & Int'l 1990) (“[I]t is incumbent upon the examiner to identify wherein each and every facet of the claimed invention is disclosed in the applied reference”).

Applicants respectfully submit that Claim 1, as amended, is not anticipated by Ecket, et al. As indicated above, Claim 1 now includes the non-obvious limitation of Claim 3 and, hence, provides:

“A construction member for a roof truss, comprising a longitudinal body having at least a base and two upright side walls, wherein each of said upright side walls extends longitudinally beyond said base to thereby form opposed flange portions at longitudinal ends thereof, said opposed flange portions including opposed and co-axially aligned, internally pressed circular sections, and *wherein each of said flange portions extends beyond said base in a substantially semicircular arrangements, whereby the radial centers of each semicircular flange further define the radial centers of said internally pressed circular sections associated therewith.*”

Applicants respectfully submit that Ecket, et al. does not teach or even suggest a roof truss member having all of the limitations and, hence, features recited in amended Claim 1. Claim 1 and, hence, all claims dependant thereon, should accordingly be deemed allowable over Ecket, et al.

Applicants have also reviewed the prior art made of record and not relied upon by the Examiner and has found them not to teach or make obvious the present invention.

III. CONCLUSION

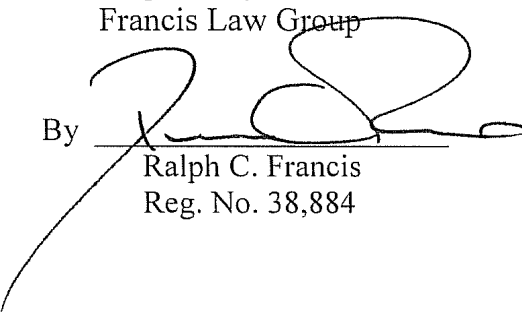
Applicants having answered each and every ground of objection and rejection as set forth by the Examiner, and having added no new matter, respectfully submit that Claims 1-2, 4-15, and 34 are now in condition for allowance and the same is respectfully solicited.

If the Examiner has any further questions or comments, Applicants invite the Examiner to contact their Attorney of Record at the telephone number below to expedite prosecution of the application.

Respectfully submitted,

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